

Peter N. Larson (State Bar No. 153448)
 pnlarson@jonesday.com
 Ellinor R. Coder (State Bar No. 258258)
 ecoder@jonesday.com
JONES DAY
 555 California Street, 26th Floor
 San Francisco, CA 94104
 Telephone: (415) 626-3939
 Facsimile: (415) 875-5700

Paula W. Render (*Admitted Pro Hac Vice*)
 prender@jonesday.com
 Lawrence C. DiNardo (*Admitted Pro Hac Vice*)
 lcdinardo@jonesday.com
JONES DAY
 77 West Wacker
 Chicago, IL 60601-1692
 Telephone: (312) 782-3939
 Facsimile: (312) 782-8585

Attorneys for Defendants
 WAL-MART STORES, INC. AND
 WAL-MART.COM USA LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE ONLINE DVD RENTAL ANTITRUST LITIGATION	Master File No. 4:09-md-2029 PJH MDL No. 2029 Hon. Phyllis J. Hamilton
<p>This document relates to Case No. 4:11-cv-01928 PJH:</p> <p>SCOTT CALDWELL, on behalf of himself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>NETFLIX, INC.; WAL-MART STORES, INC.; and WAL-MART.COM USA LLC,</p> <p style="text-align: center;">Defendants.</p>	<p>STIPULATION AND [Proposed] ORDER REGARDING CALDWELL CASE MANAGEMENT</p>

1 WHEREAS on April 20, 2011, Plaintiff Scott Caldwell filed an action on behalf of
2 himself and all others similarly situated against Netflix, Inc. and the Wal-Mart Defendants (Wal-
3 Mart Stores, Inc. and Wal-Mart.com USA LLC);

4 WHEREAS Plaintiff Caldwell alleges substantially the same conduct as is alleged in the
5 MDL proceeding, *In re Online DVD Rental Antitrust Litigation*, master file number 4:09-md-
6 2029 PJH;

7 WHEREAS the Court found that the Caldwell action and the MDL proceeding are related
8 in the Court's April 29, 2011 Related Case Order, and the Caldwell action was reassigned to the
9 Court (MDL Doc. No. 377);

10 WHEREAS the Caldwell action has not been consolidated with the MDL proceeding
11 through the Judicial Panel on Multidistrict Litigation;

12 WHEREAS the Caldwell action was filed by a law firm and a plaintiff who had no
13 previous role in the MDL litigation, and Plaintiffs represent that the Caldwell action was only
14 filed in order to facilitate the negotiation of a settlement agreement between Plaintiffs and the
15 Wal-Mart Defendants in the MDL proceeding in light of the conflict issues that were raised in
16 connection with the motion for approval of the prior Wal-Mart settlement;

17 WHEREAS Plaintiff Caldwell's claims are the same as those alleged in the consolidated
18 complaint in the MDL proceeding, and the Caldwell complaint alleges that Mr. Caldwell is a
19 member of the certified Netflix class and he does not intend to opt out; and

20 WHEREAS Plaintiff Caldwell is willing to consolidate his claims with those in the MDL
21 proceeding as to both the Wal-Mart Defendants and Netflix;

22 The undersigned do hereby agree and stipulate that upon the entry of this [Proposed]
23 Order:

24 1. Stipulation and Pretrial Order No. 3 Re Certain Procedural Guidelines To Be
25 Followed in MDL No. 2029, as modified by the Court (MDL Doc. No. 41), shall apply to the
26 Caldwell action.

27 2. No responsive pleading, other than those which have been filed in the MDL
28 proceeding, is required from any Defendant in the Caldwell action.

1 3. Plaintiff Caldwell agrees to be subject to the calendar in the MDL litigation,
2 including the dates now passed for discovery and filing dispositive motions.

3 4. Plaintiff Caldwell agrees to have his claims against the Wal-Mart Defendants
4 made subject to the stay of proceedings and bifurcation order entered by the Court on August 30,
5 2010. (MDL Doc. No. 203).

6 5. The August 4, 2011 Case Management Conference in the Caldwell action shall be
7 vacated.

8 Dated: May 26, 2011

Respectfully submitted,

9
10 By: /s/ Paula W. Render
11 Paula W. Render (*Pro Hac Vice*)

12 Counsel for Defendants
13 WAL-MART STORES, INC. AND
14 WAL-MART.COM USA LLC

15 By: /s/ Craig C. Corbitt (with permission)
16 Craig C. Corbitt

17 Counsel for Plaintiff
18 SCOTT CALDWELL

19 By: /s/ Dylan J. Liddiard (with permission)
20 Dylan J. Liddiard

21 Counsel for Defendant
22 NETFLIX, INC.

23 **IT IS SO ORDERED.**

24
25
26 Dated: 5/31/11

27 By: Hon. Phyllis J. Hamilton
28 United States District Judge

